

**REMARKS**

In the Office Action, the Examiner rejected claims 1-2 and 20-23 under 35 U.S.C. § 103(a) as being unpatentable over NAGAMI et al. (U.S. Patent No. 5,835,710) in view of MACHIN et al. (U.S. Patent No. 6,243,753 B1); and objected to claims 3, 4 and 24 as being dependent upon a rejected base claim.

Claims 1-24 are pending in the present application. Reconsideration and allowance of all claims in view of the following remarks is respectfully requested.

Initially, Applicants note with appreciation the Examiner's continued indication that claims 5-18 are considered to be in condition for allowance. Furthermore, Applicants also note with appreciation that the Examiner has indicated that the subject matter of claims 3, 4 and 24 is patentable, and would be allowable if rewritten in independent form.

Claims 1-2 and 20-23 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over NAGAMI et al. in view of MACHIN et al. Applicants respectfully traverse.

Independent claim 1 recites a method for providing quality of service in an Internet Protocol (IP) telephony session between a calling party and a called party. The method includes transporting IP telephony media for the session between the calling party and a first device having IP telephony capability and ATM capability. IP telephony media for the session is transported between the called party and a second device having IP telephony capability and ATM capability. An ATM virtual circuit is established for the session between the first device and the second device, whereby a data path for the telephony session is secured by the use of proxy addressing.

A proper rejection under 35 U.S.C. § 103 requires that three basic criteria be met. First, there must be some suggestion or motivation, either in the references themselves, or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest each and every claim limitation. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not the applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). The cited combination of NAGAMI et al. and MACHIN et al. fail to disclose or reasonably suggest the combination of features recited in Applicants' claim 1.

In particular, the Examiner admits that NAGAMI et al. fails to teach or suggest establishing an ATM virtual circuit for the session between the first device and the second device, *whereby a data path for the telephony session is secured by the use of proxy addressing* (Office Action pg. 2). The Examiner cites MACHIN et al. to remedy this deficiency. However Applicants respectfully submit that MACHIN et al. likewise fails to disclose or reasonably suggest the recited limitation. In making the rejection, the Examiner relied on block 406 in Fig. 14, block 420 in Fig. 15 and col. 23, lines 33-36 in MACHIN et al. for allegedly disclosing this feature (Office Action, pp. 2-3). Applicants respectfully submit that these sections of MACHIN et al. do not disclose or suggest the proxy addressing feature, as recited in Applicants' claim 1.

At col. 23, lines 33-44 (relating to block 406 of Fig. 14), MACHIN et al. discloses:

In order to allow the data transports that ability to bind with the proxy client component, a special proxy address family is registered at step 406 that will be available to all data transports. Here, the proxy client component is acting like a connection manager. All the data transports will then be able to bind to the proxy client component the same way they would bind to any other connection manager without knowing the difference. In this sense, the proxy client component fully implements the connection manager interface. The proxy client component registration continues when, at step 408, the binding with the adapters is completed.

This section of MACHIN et al. discloses the use of a proxy client component included within the integrating component of MACHIN et al. to enable transparent translation of TAPI line request to alternative media connections supported by the integrating component. More particularly, this section discloses the process of registering a proxy address family for use by the proxy client component acting as a connection manager. As stated at col. 13, lines 42-47, "the term 'address families' refers to signaling protocols used to make and manage connections on a particular media type." In order to provide the translation to another media type, the proxy client must register proxy address families which are not actually related to the requested media type (e.g., TAPI). Once registered, data transports are able to interact with the proxy client component as any other connection manager.

Clearly, the proxy address family of MACHIN et al. is not equivalent to Applicants' proxy addressing for securing a data path for the telephony session. The proxy addressing of claim 1 enables the data path for a telephony session between a called party and calling party to be protected against unauthorized traffic over the connection (see Specification at page 5, lines 7-17).

At col. 24, lines 11-19 (relating to block 420 of Fig. 15), MACHIN et al.

discloses:

At step 420, however, processing diverges somewhat in that each data transport will "open" a special address family previously registered by the proxy client component known as the proxy address family in order make the association or binding between each data transport and the proxy client component. Again, this is done is done using the API calls pertinent to the connection interface provided by the integrating component in one embodiment of the present invention.

This section of MACHIN et al. continues the proxy client component implementation discussed above. At step 420, each data transport is actually bound to the proxy client component using the proxy address family registered at step 406. As discussed above, the proxy address family of MACHIN et al. does not relate in any way to securing a data path by the use of proxy addressing. Rather, the proxy address family relates to a special signaling protocol used to essentially mimic a connection not related to an initial application request. Accordingly, the proxy address family of MACHIN et al. does not disclose or reasonably suggest securing a data path by using proxy addressing, as recited in claim 1.

In addition to failing to disclose or suggest each and every element of claim 1, as set forth in detail above, Applicant also respectfully asserts that the Examiner's combination of NAGAMI et al. and MACHIN et al. is improper. In support of this combination, the Examiner states on page 3 of the Office Action that:

The proxy client component can be implemented into the router of Nagami for securing and communicating between protocols. Therefore, it would have been obvious to a person of ordinary skill in the art at the time of [sic] the invention was for made to implement the proxy server for security proposes [sic] in the communication system.

The PTO may not properly combine prior art references in order to establish a prima facie case of obviousness unless there is “some suggestion for doing so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art.” *In re Jones*, 21 USPQ2d 1941, 1943-44 (Fed. Cir. 1992); See also *In re Geiger*, 2 USPQ2d 1276, 1278 (Fed. Cir. 1987). Thus, obviousness cannot be demonstrated by combining prior art references absent some teaching, suggestion or incentive supporting the combination.

In this case, the Examiner’s statement appears to lack any support in the underlying MACHIN et al. reference. As discussed above, the proxy client component of MACHIN et al. enables connection requests by applications running on an operating system to be translated from a legacy protocol (e.g., TAPI) to a protocol supported by the operating system’s integrating component (e.g., ATM). The disclosed proxy client component serves no security purposes whatsoever, since it does not affect network addressing or remote connection addressing. Additionally, the proxy client component is clearly not a “proxy server” as stated in the last line of the Examiner’s statement and is included within an integrating component in a computer operating system.

Thus, Applicant respectfully submits that the Examiner does not provide a prima facie case of obviousness under 35 U.S.C. §103 because the Examiner has not provided any objective motivation as to why one of ordinary skill in the art would combine the teachings of NAGAMI et al. with MACHIN et al. to obtain the present invention. *In re Vaeck*, 20 USPQ2d 1438, 1442 (Fed. Cir. 1991).

For at least the foregoing reasons, Applicants submit that claim 1 is patentable over the cited combination of NAGAMI et al. and MACHIN et al., either alone or in any reasonable combination.

Claim 2 depends from claim 1. Therefore, claim 2 is patentable over the cited combination of NAGAMI et al. and MACHIN et al. for at least the reasons given above with respect to claim 1.

Regarding claims 20-23, Applicants note that the Examiner continues to fail to provide a separate analysis for independent claim 20. More specifically, no indication is provided where any of the claim elements recited in claim 20 may be found in either NAGAMI et al. or MACHIN et al. Claim 20, as presented, recites significantly different limitations than those recited in independent claim 1, which was addressed by the Examiner. In particular, claim 20 recites a system for providing a quality of service IP telephony session between a calling party and a called party. The system includes an IP network, the IP network providing IP access to the calling party and to the called party, and an ATM network. A first device is connected between the IP network and the ATM network, the first device providing bidirectional translation between IP media traffic and ATM traffic. A second device is connected between the IP network and the ATM network, the second device providing bidirectional translation between ATM traffic and IP media traffic. An intelligent control layer is provided for establishing a virtual circuit through the ATM network for an IP telephony session between the calling party and the called party, whereby the first device and the second device are assigned on a per session basis.

Clearly, the rejection of claim 1 can not apply to the language of claim 20. More specifically, the Examiner fails to point out where either NAGAMI et al. or MACHIN et al. teach or suggest an intelligent control layer for establishing a virtual circuit through the ATM network for an IP telephony session between the calling party and the called party, whereby the first device and the second device are assigned on a per session basis. No discussion of this limitation is made whatsoever. Therefore, a prima facie case of obviousness under 35 U.S.C. §103 has not been made.

For at least the foregoing reasons, Applicants submit that claim 20 is patentable over the cited combination of NAGAMI et al. and MACHIN et al., either alone or in any reasonable combination.

Claims 21-23 depend from claim 20. Therefore, these claims are considered patentable over the cited combination of NAGAMI et al. and MACHIN et al. for at least the reasons given above with respect to claim 20.

In view of the foregoing remarks, Applicant respectfully requests the Examiner's reconsideration of this application, and the timely allowance of the pending claims.

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 13-2491 and please credit any excess fees to such deposit account.

Respectfully submitted,

HARRITY & SNYDER, L.L.P.

By: 

Robin C. Clark  
Registration No. 40,956

Date: September 15, 2004

11240 Waples Mill Road  
Suite 300  
Fairfax, Virginia 22030  
(571) 432-0800